

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:

KELVIN HART  
Debtor(s)

SILVIA HART  
CoDebtor

§ Case No. 17-32743

§ Chapter 13

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MOTION FOR RELIEF FROM THE STAY REGARDING  
EXEMPT PROPERTY AND WAIVER OF THIRTY (30) DAY HEARING REQUIREMENT

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NO LATER THAN NOVEMBER 24, 2017 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN SEVEN DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON DECEMBER 1, 2017 AT 09:00 AM IN COURTROOM 404 4<sup>th</sup> FLOOR, 515 RUSK, HOUSTON, TEXAS 77002.

1. This motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on the property that is identified in paragraph 3.
2. Movant: Nationstar Mortgage LLC, as servicing agent for THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. as successor-in-interest to all permitted successors and assigns of JPMorgan Chase Bank, National Association, as Trustee for Specialty Underwriting and Residential Finance Trust Mortgage Loan Asset-Backed Certificates, Series 2005-BC4.
3. Movant, directly or as agent for the holder, holds a security interest in 21739 Canyon Peak Lane, Katy, Texas 77450, and more particularly described as follows:

LOT 40, ON BLOCK 3 OF CINCO AT WILLOW FORK SECTION TWO, A SUBDIVISION IN FORT BEND COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN SLIDE NP 1858/A OF THE PLAT RECORDS OF FORT BEND COUNTY, TEXAS

4. Movant has reviewed the schedules filed in this case. The property described in paragraph 3 is claimed as exempt by the debtor(s). Movant does not contest the claimed exemption.
5. Type of collateral: HOME
6. Debtor(s) scheduled value of property: \$433,940.00
7. Movant's estimated value of property: \$433,940.00
8. Total amount owed to Movant: \$541,981.25
9. Estimated equity (paragraph 7 minus paragraph 8): \$0.00
10. Total pre- and post-petition arrearage: \$322,331.25
11. Total post-petition arrearage: \$13,825.75
12. Amount of unpaid, past due property taxes, if applicable: N/A

13. Expiration date on insurance policy, if applicable: N/A

14.  Movant seeks relief based on the debtor(s)' failure to make payments. Debtor(s)' payment history is attached as exhibit "A." Movant represents that the attached payment history is a current payment history reflecting all payments, advances, charges and credits from October 25, 2017. Movant further represents that the payment history is self-explanatory or can be interpreted by application of coding information that is also attached. Movant acknowledges that the Court may prohibit the use of parol evidence to interpret a payment history that does not satisfy these representations.

15. \_\_\_\_\_ Movant seeks relief based on the Debtor(s) failure to provide a certificate of insurance reflecting insurance coverage as required under the Debtor(s) pre-petition contracts.

16. Name of Codebtor: Silvia Hart

17. Based on the foregoing, Movant seeks termination of the automatic stay and the co-debtor stay to allow Movant to foreclose or repossess the Debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 9.

18. Movant certifies that prior to filing a motion an attempt was made to confer with the Debtor(s)' counsel either by telephone, by e-mail or by facsimile, by the following person on the following date and time: Zachary Wright on October 27, 2017 at approximately 3:00 p.m.

Debtor(s) is opposed to the relief requested herein.. If requested by Debtor(s) or Debtor(s) counsel, a payment history in the form attached to this motion was provided at least two business days excluding intermediate weekends and holidays, before this motion was filed.

Date: October 30, 2017

/s/ LynAlise K. Tannery  
Michael J. Burns / TBN 24054447  
LynAlise K. Tannery / TBN 24083941  
Carlos R. Hernandez-Vivoni / TBN 24096186  
Zachary Wright / TBN 24097223  
Attorneys and Counselors  
14841 Dallas Parkway, Suite 300  
Dallas, Texas 75254  
(972) 643-6600  
(972) 643-6698 (Telecopier)  
E-mail: BkcyAttorneys@BuckleyMadole.com  
Attorney for Nationstar Mortgage LLC

**Certificate of Service and Certificate of Compliance with BLR 4001**

A copy of this motion was served on the persons shown on Exhibit "1" at the addresses reflected on that exhibit on October 30th, 2017 by prepaid United States first class mail or via electronic notification. Movant certifies that Movant has complied with Bankruptcy Local Rule 4001.

/s/ LynAlise K. Tannery  
Michael J. Burns  
LynAlise K. Tannery  
Carlos R. Hernandez-Vivoni  
Zachary Wright

**EXHIBIT "1"**

Service to:

Debtor's Attorney  
Ryan Lott  
Baker & Associates  
950 Echo Lane, Suite 200  
Houston, Texas 77024

Debtor  
Kelvin Hart  
21739 Canyon Peak Lane  
Katy, Texas 77450-1008

Codebtor  
Silvia Hart  
21739 Canyon Peak Lane  
Katy, Texas 77450-1008

U.S. Trustee  
Office of the US Trustee  
515 Rusk Ave., Ste. 3516  
Houston, Texas 77002

Chapter 13 Trustee  
David G. Peake  
9660 Hillcroft, Suite 430  
Houston, Texas 77096-3856

Synchrony Bank  
c/o PRA Receivables Management, LLC  
P.O. Box 41021  
Norfolk, VA 23541

Michael W. Zientz  
Mackie Wolf Zientz & Mann, P.C.  
Parkway Office Center, Suite 900  
14160 North Dallas Parkway  
Dallas, Texas 75254

Atlas Acquisitions LLC  
294 Union St.  
Hackensack, NJ 07601  
Attn: Avi Schild

17-32743

/s/ LynAlise K. Tannery  
LynAlise K. Tannery